

Dear Examiner Fulton – here is the material we would like to discuss in our telephone interview scheduled for Monday

Thanks, David Klein

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant : Dani Markbreit  
Appl. No. : 10/593,718  
Filed : 21 September 2006  
Title : KEY COMBINATION ELEMENT IN KEY BLANK AND KEY  
Group Art Unit: 3673  
Examiner : Kristina Rose Fulton  
Docket No. : 1412MUL-US  
Honorable Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**REMARKS**

Applicant has carefully studied the outstanding Official Action mailed on June 1, 2009. This response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Regarding the references referred to in the background of the instant specification, namely, US Patents 5520035, 5784910 and 5839308 to Eizen et al., Applicant wishes to go on record that these references do not qualify for an IDS under 37 CFR 1.56, because these references, to the best knowledge of the Applicant, are not material to the patentability of any existing claim, and “there is no duty to submit information which is not material to the patentability of any existing claim.”

Claims 1-3 and 5-7 stand rejected under 35 USC §102(b) as being anticipated by Botteon (US 5724841).

Claims 4 and 8 stand rejected under 35 USC §103(a) as being unpatentable over Botteon.

Examiner states Botteon has a “a resilient arm (12') disposed in a recess formed in said elongate shaft portion and capable of resiliently protruding outwards from the recess beyond both of said first and second side surfaces”, referring to the resilient arm (12') of Figs. 5 and 6 of Botteon.

This is respectfully traversed. We reproduce here Figs. 5 and 6 of Botteon:

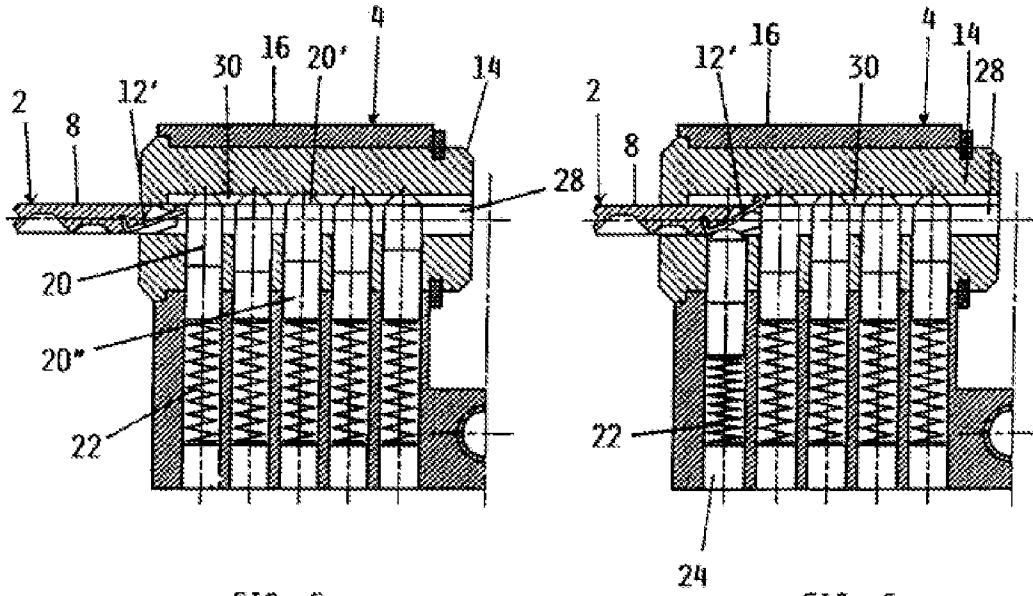


FIG. 5

FIG. 6

The last paragraph of Botteon says: "In a modified embodiment (see FIGS. 5 and 6), the member provided at the end of the shank 8 of the key 2 is in the form of a flexible blade 12', which can likewise be deviated by the pins 20 towards the tapered end thereof and into the recess 30, to then axially move said pins."

That is, flexible blade 12' performs the action described in col. 3, lines 26-39:

"During the insertion of the key into the seat 28 of the plug 14, when the end of the shank 8 or rather the movable member 12 pivoted to it encounters the cylindrical portion of the first pin 20 (see FIG. 3), it is deviated towards the recess 30, so that the end part of its inclined surface 15 enters it to engage the frusto-conical end of the pin. At this point, further insertion of the key 2 causes the frusto-conical end of the first pin 20 to slide along the inclined surface 15 of the advancing movable member 12, with consequent axial sliding of the pin along the respective cylindrical recess 18. This sliding of the pin 20 releases the seat 28 and enables the key 2 to be further inserted until the movable member 12 encounters the next pin 20 to repeat the same operational sequence."

Please note from Figs. 5 and 6 that flexible blade 12' can only protrude upwards. If flexible blade 12' were to protrude downwards beyond the lower surface of the key blade, flexible blade 12' would abut against pins 20, get stuck and key 2 could not be further inserted.

Thus, unlike the present invention, as defined in claim 1, flexible blade 12' CANNOT protrude outwards from the recess beyond BOTH of said first and second side surfaces. Moreover, Botteon teaches away from this, because otherwise Botteon will not work.

Please further note from the passage above that “the member provided at the end of the shank 8 of the key 2 is in the form of a flexible blade 12', which can likewise **be deviated by the pins 20 towards the tapered end thereof and into the recess 30**”. The pins 20 deviate the flexible blade, not the other way around. Thus, unlike the present invention, as defined in claim 2, flexible blade 12' does not have inherent energy for applying an urging force **against** the lock combination element; on the contrary, in Botteon, it is the opposite: the pins 20 (the lock combination element) apply an urging force against flexible blade 12' (the blade is deviated by the pins).

Thus, it is respectfully submitted that Botteon does not teach or suggest the claimed invention. Accordingly all claims of record are deemed allowable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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